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VIA ECF

The Honorable Pamela K. Chen
District Court Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East, Chambers N 631
Brooklyn, NY 11201

Re: Securities and Exchange Commission v. Richard Xia, a/k/a Yi Xia, et al.,
21-cv-05350-PKC-LCP

Dear Judge Chen:

I write in response to the Court's inquiries regarding my Second Motion for Release of Funds for Insurance Coverage and the renewal of the Excess Liability Policy issued by StarStone National Insurance Company for the Eastern Mirage Project. *See* ECF No. 332. Specifically, the Court requested information related to: (1) the policy premium increase for 2023-2024's coverage from \$18,382 last year to \$35,754; and (2) the additional fees (*i.e.*, "stamping fee" and "surplus lines tax") that are being assessed for 2023-2024.

While the insurance coverage remains constant between last year and our proposed insurance coverage for Eastern Mirage, we were forced to confront a market change. Specifically, and based upon a comprehensive review of the insurance marketplace, we found carriers have less appetite to underwrite "high risk construction"¹ within the five boroughs of the City of New York this year. We also understand that many insurance carriers stopped offering excess liability policies altogether to construction sites in New York City.

Last year, StarStone underwrote an excess liability policy for Eastern Mirage. When seeking to renew that policy this year, however, it was unavailable from that division of StarStone. My team approached other carriers, but all declined to issue a policy for Eastern Mirage.

Therefore, based on our due diligence and all available information, we put forth the best excess and surplus line policy available for Eastern Mirage at this time. While it is more expensive (an additional \$17,372) and involves some additional fees (amounting to \$1,287.14 and \$53.63 for the surplus lines tax and stamping fee, respectively), this type of policy is standard for the construction

¹ Many insurance carriers considered the Eastern Mirage site "high risk" because of, *inter alia*, the length of time it has been vacant and its history of Department of Buildings violations.



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insurance industry.² I have been informed by my insurance team and independent brokers that the proposed excess risk pricing is in line with current market conditions. In addition, the surplus lines tax of 3.6% is required in New York pursuant to Insurance Law §2118.³ The stamping fee of .15% is required by ELANY.

In this and in all aspects of my work, I share the Court's diligence as to minimizing expenses. I would, of course, be happy to answer additional questions the Court may have and hope this information proves helpful.

Respectfully submitted,

s/M. Scott Peeler

² Insurers that are permitted to issue excess and surplus line policies in the State of New York are regulated by Insurance Regulation 41 (11 NYCRR 27) and the Excess Line Association of New York (ELANY). StarStone is properly registered and approved by ELANY to issue excess and surplus line policies in New York.

³ The New York State Department of Financial Services has interpreted policy fees payable to the insurer as premium subject to the 3.6% tax.